IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.MC.No. 2013 of 2007()

CMP.4005/2007 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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PETITIONER:

SUJA, AGED 30 YEARS, W/O. YESUDASAN
ANTONY BHAVANAM, KIDANGAYAM MURI
NOORANAD VILLAGE.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS:

THE STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2013 of 2007

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Dated this the 22nd day of June, 2007

O R D E R

The petitioner's vehicle, a lorry, bearing registration No. KL 4/A 2688, was allegedly used for the illicit transportation of river sand. It was seized by the police and the seizure was reported to the court. The vehicle was also produced before the learned Magistrate. The petitioner applied for release of the vehicle. The learned Magistrate has rejected the said application by Annex.A1 order on the sole ground that the vehicle is likely to be used again for commission of the offence.

2. The petitioner claims to be aggrieved by the order. The learned counsel for the petitioner submits that the petitioner or his vehicle is not involved in any similar crime. In these circumstances the apprehension, on the basis of which the learned Magistrate has rejected the prayer, must be held to be non-existent and fanciful. Subject to appropriate conditions, the vehicle may be directed to be released to the petitioner, prays the learned counsel.

3. Notice was given to the learned Prosecutor. After perusing the impugned order the learned Prosecutor only submits that

appropriate orders may be passed. There is no opposition against the release of the vehicle to the petitioner, subject to appropriate terms and conditions, submits the learned P.P.

4. I am satisfied in the facts and circumstances of the case that the vehicle can be directed to be released to the petitioner, subject to appropriate terms and conditions. In taking this view, I take note of the decision in **Sunderbhai Ambalal Desai** v. **State of Gujarat** (AIR 2003 SC 638). All courts must show eagerness and anxiety to ensure that vehicles and properties are not unnecessarily detained in custody of the court exposed to sun and rain and subjected to deterioration and loss.

5. This Crl.M.C. is accordingly allowed. The vehicle in question shall be released to the petitioner on the following terms and conditions.

(1) The petitioner shall produce all documents to satisfy the learned Magistrate that she is the owner entitled for possession of the vehicle.

(2) She shall execute a bond for an amount equal to the value of the vehicle to be fixed by the learned Magistrate along with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(3) The petitioner shall, in the bond to be executed by her, specifically undertake that the petitioner's vehicle shall not be used for the

commission of any offence while it is in her possession on the strength of this order.

6. Hand over copy of the order.

(R. BASANT)
Judge

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